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SUBJECT: COE SKEPTICAL NEW OMBUDSMAN LAW MEETS
MEMBERSHIP OBLIGATIONS

1. (U) Sensitive but unclassified. Please protect accordingly.

SUMMARY

2. (SBU) Under substantial pressure from the Council of Europe, the Armenian National Assembly (NA) voted September 9 to create the position of Human Rights Ombudsman to oversee the human rights situation the country. Numerous human rights NGOs and the Council of Europe itself have voiced serious misgivings about the independence of the ombudsman, and urged the National Assembly to enact further legislation to provide greater parliamentary oversight of the position and further define the ombudsman's duties. End Summary.

OMBUDSMAN LAW FINALLY PASSED

3. (SBU) As part of its membership obligations to the Council Of Europe (COE), Armenia was required to create the position of a Human Rights Ombudsman, an individual who would take responsibility for the protection of human rights and civil liberties in the country. In September 2002, a COE investigative panel found Armenia generally negligent in adopting the legislative reforms required by the body, and set a deadline of January 2004 for their adoption. To meet the COE's deadline, the government has aggressively pushed several high-profile human rights related bills through the National Assembly (NA) during the fall 2003 session. The NA passed the bill creating the ombudsman position September 9, and President Kocharian signed it into law. Under the Armenian constitution, the president would appoint the ombudsman and, according to several government sources, he is likely to do so by the end of the year.

COE: OMBUDSMAN BILL NOT WHAT WE EXPECTED

4. (SBU) According to Natalia Vutova, Special Representative of the COE Secretary-General in Armenia, Armenia's ombudsman bill does not meet COE standards. Vutova contends that both the COE and OSCE have very explicit requirements for human rights ombudsmen, including its complete independence from executive authority. Under the current Armenian constitutional framework, the National Assembly is not empowered to review the president's selection for the ombudsman post, which would be under executive administration. Vutova stated that the COE requires "not just laws to be adopted, but the right laws with the right content." The ombudsman law, along with draft laws on alternative military service and the media, falls short of meeting COE requirements.

HUMAN RIGHTS NGOS ALSO SKEPTICAL

5. (U) Human rights NGOs, including the Helsinki Commission, the International Union of Lawyers, and the Armenian Union of Journalists, organized a seminar in October 2003 to discuss the shortcomings of the ombudsman law. Most agreed that the lack of independence of the ombudsman would make the post nearly as ineffective at examining the human rights situation as the Presidential Commission on Human Rights, which has not held hearings on any issue in a year. The Helsinki Commission of Armenia noted that in a frantic rush to meet the COE deadline, the NA was passing ineffectual human rights laws. Helsinki Commission Chairman Avetik Ishkhanyan said to the press, "It seems that Armenian authorities are in a hurry to [fulfill] several [COE] obligations, but they don't care how they are going to do that."

CANDIDATE FOR OMBUDSMAN NOTES LAW'S SHORTCOMINGS

16. (SBU) Larissa Alaverdian, a member of the President's Commission on Human Rights and former parliamentarian, pointed to additional shortcomings in the ombudsman law. She contended that the ombudsman law had serious structural flaws, and would have to be amended. According to Alaverdian, the ombudsman's duties are not clearly defined, nor is the position's relationship to other government agencies. Alverdian stated that another concern is that the ombudsman does not have an independent budget, and would have to rely on the executive branch to fund its operations. Alverdian confirmed recent press speculation that she is one of three finalists for the ombudsman position, and, despite her misgivings about the law, she told us she would accept and welcome the appointment.

COMMENT: COE CONCERNS MAY RESULT IN PUNITIVE ACTION

17. (SBU) The concerns raised by the COE over the ombudsman law highlight its disagreement with the GOAM over what membership obligations to the organization entail. Armenia's seeming indifference to the COE protests over the content of its human rights legislation, including bills on alternative military service, the media, and the ombudsman, and its continued failure to meet deadlines for constitutional reform could have negative consequences for its membership in the organization. The Parliamentary Assembly of the Council of Europe has commissioned a report on Armenia that will be released in January 2004 that will address the dispute over Armenia's membership obligations. Vutova said that based on the report, which will also include a review of the flawed Armenian 2003 presidential and parliamentary elections, PACE may decide to impose punitive actions, such as the suspension of the Armenian delegation's voting privileges.

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